

**§ 1.41-6 Aggregation of expenditures.**

(a) *Controlled group of corporations; trades or businesses under common control*—(1) *In general.* To determine the amount of research credit (if any) allowable to a trade or business that at the end of its taxable year is a member of a controlled group, a taxpayer must—

(i) Compute the group credit in the manner described in paragraph (b) of this section; and

(ii) Allocate the group credit among the members of the group in the manner described in paragraph (c) of this section.

(2) *Consolidated groups.* For special rules relating to consolidated groups, see paragraph (d) of this section.

(3) *Definitions.* For purposes of this section—

(i) *Consolidated group* has the meaning set forth in § 1.1502-1(h).

(ii) *Controlled group* and *group* mean a controlled group of corporations, as defined in section 41(f)(5), or a group of trades or businesses under common control. For rules for determining whether trades or businesses are under common control, see § 1.52-1 (b) through (g).

(iii) *Credit year* means the taxable year for which the member is computing the credit.

(iv) *Group credit* means the research credit (if any) allowable to a controlled group.

(v) *Trade or business* means a sole proprietorship, a partnership, a trust, an estate, or a corporation that is carrying on a trade or business (within the meaning of section 162). Any corporation that is a member of a commonly controlled group shall be deemed to be carrying on a trade or business if any other member of that group is carrying on any trade or business.

(b) *Computation of the group credit*—(1) *In general.* All members of a controlled group are treated as a single taxpayer for purposes of computing the research credit. The group credit is computed by applying all of the section 41 computational rules on an aggregate basis. All members of a controlled group must use the same method of computation, either the method described in section 41(a) or the alternative incremental research credit (AIRC) method described

in section 41(c)(4), in computing the group credit for a credit year.

(2) *Start-up companies*—(i) *In general.* For purposes of computing the group credit, a controlled group is treated as a start-up company for purposes of section 41(c)(3)(B)(i) if—

(A) There was no taxable year beginning before January 1, 1984, in which a member of the group had gross receipts and either the same member or another member also had qualified research expenditures (QREs); or

(B) There were fewer than three taxable years beginning after December 31, 1983, and before January 1, 1989, in which a member of the group had gross receipts and either the same member or another member also had QREs.

(ii) *Example.* The following example illustrates the principles of paragraph (b)(2)(i) of this section:

*Example.* A, B, and C, all of which are calendar year taxpayers, are members of a controlled group. During the 1983 taxable year, A had QREs, but no gross receipts; B had gross receipts, but no QREs; and C had no QREs or gross receipts. The 1984 taxable year was the first taxable year for which each of A, B, and C had both QREs and gross receipts. A, B, and C had both QREs and gross receipts in 1985, 1986, 1987, and 1988. Because the first taxable year for which each of A, B, and C had both QREs and gross receipts began after December 31, 1983, each of A, B, and C is a start-up company under section 41(c)(3)(B)(i) and each is a start-up company for purposes of computing the stand-alone entity credit. During the 1983 taxable year, at least one member of the group, A, had QREs and at least one member of the group, B, had gross receipts, thus, the group had both QREs and gross receipts in 1983. Therefore, the controlled group is not a start-up company because the first taxable year for which the group had both QREs and gross receipts did not begin after December 31, 1983, and there were not fewer than three taxable years beginning after December 31, 1983, and before January 1, 1989, in which a member of the group had gross receipts and QREs.

(iii) *First taxable year after December 31, 1993, for which the controlled group had QREs.* In the case of a controlled group that is treated as a start-up company under section 41(c)(3)(B)(i) and paragraph (b)(2)(i) of this section, for purposes of determining the group's fixed-base percentage under section 41(c)(3)(B)(ii), the first taxable year after December 31, 1993, for which the

group has QREs is the first taxable year in which at least one member of the group has QREs.

(iv) *Example.* The following example illustrates the principles of paragraph (b)(2)(iii) of this section:

*Example.* D, E, and F, all of which are calendar year taxpayers, are members of a controlled group. The group is treated as a start-up company under section 41(c)(3)(B)(i) and paragraph (b)(2)(i) of this section. The first taxable year after December 31, 1993, for which D had QREs was 1994. The first taxable year after December 31, 1993, for which E had QREs was 1995. The first taxable year after December 31, 1993, for which F had QREs was 1996. Because the 1994 taxable year was the first taxable year after December 31, 1993, for which at least one member of the group, D, had QREs, for purposes of determining the

group's fixed-based percentage under section 41(c)(3)(B)(ii), the 1994 taxable year was the first taxable year after December 31, 1993, for which the group had QREs.

(c) *Allocation of the group credit*—(1) *In general.* (i) To the extent the group credit (if any) computed under paragraph (b) of this section does not exceed the sum of the stand-alone entity credits of all of the members of a controlled group, computed under paragraph (c)(2) of this section, such group credit shall be allocated among the members of the controlled group in proportion to the stand-alone entity credits of the members of the controlled group, computed under paragraph (c)(2) of this section:

$$\text{group credit that does not exceed sum of all the members' stand-alone entity credits} \times \frac{\text{member's stand-alone entity credit}}{\text{sum of all the members' stand-alone entity credits.}}$$

(ii) To the extent that the group credit (if any) computed under paragraph (b) of this section exceeds the sum of the stand-alone entity credits of all of the members of the controlled group, computed under paragraph (c)(2)

of this section, such excess shall be allocated among the members of a controlled group in proportion to the QREs of the members of the controlled group:

$$(\text{group credit} - \text{sum of all the members' stand-alone entity credits}) \times \frac{\text{member's QREs}}{\text{sum of all the members' QREs.}}$$

(2) *Stand-alone entity credit.* The term *stand-alone entity credit* means the research credit (if any) that would be allowable to a member of a controlled group if the credit were computed as if section 41(f)(1) did not apply, except that the member must apply the rules provided in paragraphs (d)(1) (relating to consolidated groups) and (i) (relating to intra-group transactions) of this section. Each member's stand-alone entity credit for any credit year must be computed under whichever method (the method described in section 41(a) or the method described in section 41(c)(4)) results in the greater stand-alone entity credit for that member, without regard to the method used to compute the group credit.

(d) *Special rules for consolidated groups*—(1) *In general.* For purposes of applying paragraph (c) of this section, a consolidated group whose members are members of a controlled group is treated as a single member of the controlled group and a single stand-alone entity credit is computed for the consolidated group.

(2) *Start-up company status.* A consolidated group's status as a start-up company and the first taxable year after December 31, 1993, for which a consolidated group has QREs are determined in accordance with the principles of paragraph (b)(2) of this section.

(3) *Special rule for allocation of group credit among consolidated group members.* The portion of the group credit that is

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allocated to a consolidated group is allocated to the members of the consolidated group in accordance with the principles of paragraph (c) of this section. However, for this purpose, the stand-alone entity credit of a member of a consolidated group is computed without regard to section 41(f)(1), but with regard to paragraph (i) of this section.

(e) *Examples.* The following examples illustrate the provisions of this section. Unless otherwise stated, no members of a controlled group are members of a consolidated group, no member of the group made any basic research payments or paid or incurred any amounts

to an energy research consortium, and the group has not made an AIRC election (except as provided in Example 6) or an ASC election. For an example illustrating the calculation of the alternative simplified credit under section 41(c)(5), which is applicable for taxable years ending after December 31, 2006, see § 1.41-6T(e).

*Example 1. Group credit is less than sum of members' stand-alone entity credits—(i) Facts.* A, B, and C, all of which are calendar-year taxpayers, are members of a controlled group. For purposes of computing the group credit for the 2004 taxable year (the credit year), A, B, and C had the following:

	A	B	C	Group aggregate
Credit Year QREs .....	\$200x	\$20x	\$110x	\$330x
1984-1988 QREs .....	\$40x	\$10x	\$100x	\$150x
1984-1988 Gross Receipts .....	\$1,000x	\$350x	\$150x	\$1,500x
Average Annual Gross Receipts for 4 Years Preceding the Credit Year .....	\$1,200x	\$200x	\$300x	\$1,700x

(ii) *Computation of the group credit—(A) In general.* The research credit allowable to the group is computed as if A, B, and C were one taxpayer. The group credit is equal to 20 percent of the excess of the group's aggregate credit year QREs (\$330x) over the group's base amount (\$170x). The group credit is  $0.20 \times (\$330x - \$170x)$ , which equals \$32x.

(B) *Group's base amount—(1) Computation.* The group's base amount equals the greater of: The group's fixed-base percentage (10 percent) multiplied by the group's aggregate average annual gross receipts for the 4 taxable years preceding the credit year (\$1,700x), or the group's minimum base amount (\$165x). The group's base amount, therefore, is \$170x, which is the greater of:  $0.10 \times \$1,700x$ , which equals \$170x, or \$165x.

(2) *Group's minimum base amount.* The group's minimum base amount is 50 percent of the group's aggregate credit year QREs. The group's minimum base amount is  $0.50 \times \$330x$ , which equals \$165x.

(3) *Group's fixed-base percentage.* The group's fixed-base percentage is the lesser of: The ratio that the group's aggregate QREs for the taxable years beginning after December 31, 1983, and before January 1, 1989, bear to the group's aggregate gross receipts for

the same period, or 16 percent (the statutory maximum). The group's fixed-base percentage, therefore, is 10 percent, which is the lesser of:  $\$150x/\$1,500x$ , which equals 10 percent, or 16 percent.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, each member's stand-alone entity credit must be computed using the method that results in the greater stand-alone entity credit for that member. The stand-alone entity credit for each of A, B, and C is greater using the method described in section 41(a). Therefore, the stand-alone entity credit for each of A, B, and C must be computed using the method described in section 41(a). A's stand-alone entity credit is \$20x. B's stand-alone entity credit is \$2x. C's stand-alone entity credit is \$11x. The sum of the members' stand-alone entity credits is \$33x. Because the group credit of \$32x is less than the sum of the stand-alone entity credits of all the members of the group (\$33x), the group credit is allocated among the members of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The \$32x group credit is allocated as follows:

	A	B	C	Total
Stand-Alone Entity Credit .....	\$20x	\$2x	\$11x	\$33x
Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits) .....	20/33	2/33	11/33	.....
Multiplied by: Group Credit .....	\$32x	\$32x	\$32x	.....
Equals: Credit Allocated to Member .....	\$19.39x	\$1.94x	\$10.67x	\$32x

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*Example 2. Group credit exceeds sum of members' stand-alone entity credits—(i) Facts.* D, E, F, and G, all of which are calendar-year taxpayers, are members of a controlled group.

For purposes of computing the group credit for the 2004 taxable year (the credit year), D, E, F, and G had the following:

	D	E	F	G	Group aggregate
Credit Year QREs .....	\$580x	\$10x	\$70x	\$15x	\$675x
1984-1988 QREs .....	\$500x	\$25x	\$100x	\$25x	\$650x
1984-1988 Gross Receipts .....	\$4,000x	\$5,000x	\$2,000x	\$10,000x	\$21,000x
Average Annual Gross Receipts for 4 Years Preceding the Credit Year .....	\$5,000x	\$5,000x	\$2,000x	\$5,000x	\$17,000x

(ii) *Computation of the group credit—(A) In general.* The research credit allowable to the group is computed as if D, E, F, and G were one taxpayer. The group credit is equal to 20 percent of the excess of the group's aggregate credit year QREs (\$675x) over the group's base amount (\$527x). The group credit is  $0.20 \times (\$675x - \$527x)$ , which equals \$29.76x.

(B) *Group's base amount—(1) Computation.* The group's base amount equals the greater of: The group's fixed-base percentage (3.10 percent) multiplied by the group's aggregate average annual gross receipts for the 4 taxable years preceding the credit year (\$17,000x), or the group's minimum base amount (\$337.50x). The group's base amount, therefore, is \$527x, which is the greater of:  $0.031 \times \$17,000x$ , which equals \$527x, or \$337.50x.

(2) *Group's minimum base amount.* The group's minimum base amount is 50 percent of the group's aggregate credit year QREs. The group's minimum base amount is  $0.50 \times \$675x$ , which equals \$337.50x.

(3) *Group's fixed-base percentage.* The group's fixed-base percentage is the lesser of: The ratio that the group's aggregate QREs for the taxable years beginning after December 31, 1983, and before January 1, 1989, bear to the group's aggregate gross receipts for the same period, or 16 percent (the statutory maximum). The group's fixed-base percent-

age, therefore, is 3.10 percent, which is the lesser of:  $\$650x / \$21,000x$ , which equals 3.10 percent, or 16 percent.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, each member's stand-alone entity credit must be computed using the method that results in the greater stand-alone entity credit for that member. The stand-alone entity credits for D (\$19.46x) and F (\$1.71x) are greater using the AIRC method. Therefore, the stand-alone entity credits for D and F must be computed using the AIRC method. The stand-alone entity credit for G (\$0.50x) is greater using the method described in section 41(a). Therefore, the stand-alone entity credit for G must be computed using the method described in section 41(a). E's stand-alone entity credit computed under either method is zero. The sum of the members' stand-alone entity credits is \$21.67x. Because the group credit of \$29.76x is greater than the sum of the stand-alone entity credits of all the members of the group (\$21.67x), each member of the group is allocated an amount of the group credit equal to that member's stand-alone entity credit. The excess of the group credit over the sum of the members' stand alone entity credits (\$8.09x) is allocated among the members of the group based on the ratio that each member's QREs bear to the sum of the QREs of all the members of the group. The \$29.76x group credit is allocated as follows:

	D	E	F	G	Total
Group Credit .....					\$29.76x
Minus: Sum of Stand-Alone Entity Credits .....	\$19.46x	\$0.00x	\$1.71x	\$0.50x	\$21.67x
Equals: Excess Group Credit .....					\$8.09x
Excess Group Credit .....	\$8.09x	\$8.09x	\$8.09x	\$8.09x	
Multiplied By Allocation Ratio: QREs/Sum of QREs .....	580/675	10/675	70/675	15/675	
Excess Group Credit Allocated .....	\$6.95x	\$0.12x	\$0.84x	\$0.18x	
Plus: Stand-Alone Entity Credit .....	\$19.46x	\$0.00x	\$1.71x	\$0.50x	
Equals: Credit Allocated to Member .....	\$26.41x	\$0.12x	\$2.55x	\$0.68x	\$29.76x

*Example 3. Consolidated group within a controlled group—(i) Facts.* The facts are the same as in *Example 2*, except that D and E file a consolidated return.

(ii) *Allocation of the group credit—(A) In general.* For purposes of allocating the controlled group's research credit of \$29.76x among the members of the controlled group,

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D and E are treated as a single member of the controlled group.

(B) *Computation of stand-alone entity credits.* The stand-alone entity credit for the consolidated group is computed by treating D and E as a single entity. Under paragraph (c)(2) of this section, the stand-alone entity credit for each member must be computed using the method that results in the greater stand-alone entity credit for that member. The stand-alone entity credit for each of the DE consolidated group (\$17.55x) and F (\$1.71x) is greater using the AIRC method. Therefore, the stand-alone entity credit for each of the DE consolidated group and F must be computed using the AIRC method. The stand-alone entity credit for G (\$0.50x) is greater using the method described in section 41(a).

Therefore, the stand-alone entity credit for G must be computed using the method described in section 41(a). The sum of the members' stand-alone entity credits is \$19.76x.

(C) *Allocation of controlled group credit.* Because the group credit of \$29.76x is greater than the sum of the stand-alone entity credits of all the members of the group (\$19.76x), each member of the group is allocated an amount of the group credit equal to that member's stand-alone entity credit. The excess of the group credit over the sum of the members' stand-alone entity credits (\$10.00x) is allocated among the members of the group based on the ratio that each member's QREs bear to the sum of the QREs of all the members of the group. The group credit of \$29.76x is allocated as follows:

	DE	F	G	Total
Group Credit .....				\$29.76x
Minus: Sum of Stand-Alone Entity Credits .....	\$17.55x	\$1.71x	\$0.50x	\$19.76x
Equals: Excess Group Credit .....				\$10.00x
Excess Group Credit .....	\$10.00x	\$10.00x	\$10.00x	
Multiplied By Allocation Ratio: QREs/Sum of QREs .....	590/675	70/675	15/675	
Excess Group Credit Allocated .....	\$8.74x	\$1.04x	\$0.22x	
Plus: Stand-Alone Entity Credit .....	\$17.55x	\$1.71x	\$0.50x	
Equals: Credit Allocated to Member .....	\$26.29x	\$2.75x	\$0.72x	\$29.76x

(iii) *Allocation of the group credit allocated to consolidated group—(A) In general.* The group credit that is allocated to a consolidated group is allocated among the members of the consolidated group in accordance with the principles of paragraph (c) of this section.

(B) *Computation of stand-alone entity credits.* Under paragraph (c)(2) of this section, the stand-alone entity credit for each member of the consolidated group must be computed using the method that results in the greater stand-alone entity credit for that member. The stand-alone entity credit for D (\$19.46x) is greater using the AIRC method. Therefore, the stand-alone entity credit for D must be computed using the AIRC method. The stand-alone entity credit for E is zero under either method. The sum of the stand-alone entity credits of the members of the consolidated group is \$19.46x.

(C) *Allocation among members of consolidated group.* Because the amount of the group credit allocated to the consolidated group (\$26.29x) is greater than \$19.46x, the sum of the stand-alone entity credits of all the members of the consolidated group, each member of the consolidated group is allocated an amount of the group credit allocated to the consolidated group equal to that member's stand-alone entity credit. The excess of the group credit allocated to the consolidated group over the sum of the consolidated group members' stand alone entity credits (\$6.83x) is allocated among the members of the consolidated group based on the ratio that each member's QREs bear to the sum of the QREs of all the members of the consolidated group. The group credit of \$26.29x allocated to the DE consolidated group is allocated between D and E as follows:

	D	E	Total
Group Credit .....			\$26.29x
Minus: Sum of Stand-Alone Entity Credits .....	\$19.46x	\$0.00x	\$19.46x
Excess Group Credit .....			\$6.83x
Excess Group Credit .....	\$6.83x	\$6.83x	
Multiplied By Allocation Ratio: QREs/Sum of QREs .....	580/590	10/590	
Excess Group Credit Allocated .....	\$6.71x	\$0.12x	
Plus: Stand-Alone Entity Credit .....	\$19.46x	\$0.00x	
Equals: Credit Allocated to Member .....	\$26.17x	\$0.12x	\$26.29x

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*Example 4. Member is a start-up company—(i) Facts.* H, I, and J, all of which are calendar-year taxpayers, are members of a controlled group. The first taxable year for which J has both QREs and gross receipts begins after December 31, 1983, therefore, J is a start-up company under section 41(c)(3)(B)(i). The

first taxable year for which H and I had both QREs and gross receipts began before December 31, 1983, therefore, H and I are not start-up companies under section 41(c)(3)(B)(i). For purposes of computing the group credit for the 2004 taxable year (the credit year), H, I, and J had the following:

	H	I	J	Group aggregate
Credit Year QREs .....	\$200x	\$20x	\$50x	\$270x
1984-1988 QREs .....	\$55x	\$15x	\$0x	\$70x
1984-1988 Gross Receipts .....	\$1,000x	\$400x	\$0x	\$1,400x
Average Annual Gross Receipts for 4 Years Preceding the Credit Year .....	\$1,200x	\$200x	\$0x	\$1,400x

(ii) *Computation of the group credit—(A) In general.* The research credit allowable to the group is computed as if H, I, and J were one taxpayer. The group credit is equal to 20 percent of the excess of the group's aggregate credit year QREs (\$270x) over the group's base amount (\$135x). The group credit is  $0.20 \times (\$270x - \$135x)$ , which equals \$27x.

(B) *Group's base amount—(1) Computation.* The group's base amount equals the greater of: the group's fixed-base percentage (5 percent) multiplied by the group's aggregate average annual gross receipts for the 4 taxable years preceding the credit year (\$1,400x), or the group's minimum base amount (\$135x). The group's base amount, therefore, is \$135x, which is the greater of:  $0.05 \times \$1,400x$ , which equals \$70x, or \$135x.

(2) *Group's minimum base amount.* The group's minimum base amount is 50 percent of the group's aggregate credit year QREs. The group's minimum base amount is  $0.50 \times \$270x$ , which equals \$135x.

(3) *Group's fixed-base percentage.* Because the first taxable year in which at least one member of the group has QREs and at least one member of the group has gross receipts does not begin after December 31, 1983, the group is not a start-up company. Therefore, the group's fixed-base percentage is the lesser of: the ratio that the group's aggregate

QREs for the taxable years beginning after December 31, 1983, and before January 1, 1989, bear to the group's aggregate gross receipts for the same period, or 16 percent (the statutory maximum). The group's fixed-base percentage, therefore, is 5 percent, which is the lesser of:  $\$70x/\$1,400x$ , which equals 5 percent, or 16 percent.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-alone entity credit for each member of the group must be computed using the method that results in the greater stand-alone entity credit for that member. The stand-alone entity credits for H (\$20x), I (\$2x), and J (\$5x) are greater using the method described in section 41(a). Therefore, the stand-alone entity credits for each of H, I, and J must be computed using the method described in section 41(a). The sum of the stand-alone entity credits of the members of the group is \$27x. Because the group credit of \$27x is equal to the sum of the stand-alone entity credits of all the members of the group (\$27x), the group credit is allocated among the members of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The group credit of \$27x is allocated as follows:

	H	I	J	Total
Stand-Alone Entity Credit .....	\$20x	\$2x	\$5x	\$27x
Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits) .....	20/27	2/27	5/27	.....
Multiplied by: Group Credit .....	\$27x	\$27x	\$27x	.....
Equals: Credit Allocated to Member .....	\$20x	\$2x	\$5x	\$27x

*Example 5. Group is a start-up company—(i) Facts.* K, L, and M, all of which are calendar-year taxpayers, are members of a controlled group. The taxable year ending on December 31, 1999, is the first taxable year in which a member of the group had QREs and either the same member or another member also had gross receipts. In that year, each of K, L,

and M had both QREs and gross receipts. The 2004 taxable year is the fifth taxable year beginning after December 31, 1993, for which at least one member of the group had QREs. For purposes of computing the group credit for the 2004 taxable year (the credit year), K, L, and M had the following:

	K	L	M	Group aggregate
Credit Year QREs .....	\$255x	\$25x	\$100x	\$380x
1984-1988 QREs .....	\$0x	\$0x	\$0x	\$0x
1984-1988 Gross Receipts .....	\$0x	\$0x	\$0x	\$0x
Average Annual Gross Receipts for 4 Years Preceding the Credit Year .....	\$1,600x	\$340x	\$300x	\$2,240x

(ii) *Computation of the group credit—(A) In general.* The research credit allowable to the group is computed as if K, L, and M were one taxpayer. The group credit is equal to 20 percent of the excess of the group's aggregate credit year QREs (\$380x) over the group's base amount (\$190x). The group credit is 0.20x (\$380x - \$190x), which equals \$38x.

(B) *Group's base amount—(1) Computation.* The group's base amount equals the greater of: the group's fixed-base percentage (3 percent) multiplied by the group's aggregate average annual gross receipts for the 4 taxable years preceding the credit year (\$2,240x), or the group's minimum base amount (\$190x). The group's base amount, therefore, is \$190x, which is the greater of:  $0.03 \times \$2,240x$ , which equals \$67.20x, or \$190x.

(2) *Group's minimum base amount.* The group's minimum base amount is 50 percent of the group's aggregate credit year QREs. The group's minimum base amount is  $0.50 \times \$380x$ , which equals \$190x.

(3) *Group's fixed-base percentage.* Because the first taxable year in which at least one member of the group has QREs and at least one member of the group has gross receipts begins after December 31, 1983, the group is treated as a start-up company under section

41(c)(3)(B)(i) and paragraph (b)(2)(i) of this section. Because the 2004 taxable year is the fifth taxable year beginning after December 31, 1993, for which at least one member of the group had QREs, under section 41(c)(3)(B)(ii)(I), the group's fixed-base percentage is 3 percent.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-alone entity credit for each member of the group must be computed using the method that results in the greater stand-alone entity credit for that member. The stand-alone entity credit for each of K (\$25.5x), L (\$2.5x), and M (\$10x) is greater using the method described in section 41(a). Therefore the stand-alone entity credits for each of K, L, and M must be computed using the method described in section 41(a). The sum of the stand-alone entity credits of all the members of the group is \$38x. Because the group credit of \$38x is equal to sum of the stand-alone entity credits of all the members of the group (\$38x), the group credit is allocated among the members of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The \$38x group credit is allocated as follows:

	K	L	M	Total
Stand-Alone Entity Credit .....	\$25.5x	\$2.5x	\$10x	\$38x
Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits) .....	25.5/38	2.5/38	10/38	.....
Multiplied by: Group Credit .....	\$38x	\$38x	\$38x	.....
Equals: Credit Allocated to Member .....	\$25.5x	\$2.5x	\$10x	\$38x

*Example 6. Group alternative incremental research credit—(i) Facts.* N, O, and P, all of which are calendar-year taxpayers, are members of a controlled group. The research credit under section 41(a) is not allowable to the group for the 2004 taxable year because the group's aggregate QREs for the 2004 taxable

year are less than the group's base amount. The group credit is computed using the AIRC rules of section 41(c)(4). For purposes of computing the group credit for the 2004 taxable year (the credit year), N, O, and P had the following:

	N	O	P	Group aggregate
Credit Year QREs .....	\$0x	\$20x	\$110x	\$130x
Average Annual Gross Receipts for 4 Years Preceding the Credit Year .....	\$1,200x	\$200x	\$300x	\$1,700x

(ii) *Computation of the group credit.* The research credit allowable to the group is com-

puted as if N, O, and P were one taxpayer. The group credit is equal to the sum of: 2.65

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percent of so much of the group's aggregate QREs for the taxable year as exceeds 1 percent of the group's aggregate average annual gross receipts for the 4 taxable years preceding the credit year, but does not exceed 1.5 percent of such average; 3.2 percent of so much of the group's aggregate QREs as exceeds 1.5 percent of such average but does not exceed 2 percent of such average; and 3.75 percent of so much of such QREs as exceeds 2 percent of such average. The group credit is  $[0.0265 \times [(\$1,700x \times 0.015) - (\$1,700x \times 0.01)]] + [0.032 \times [(\$1,700x \times 0.02) - (\$1,700x \times 0.015)]] + [0.0375 \times [\$130x - (\$1,700x \times 0.02)]]$ , which equals \$4.10x.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-alone entity credit for each member of the group must be computed using the method

that results in the greater stand-alone entity credit for that member. The stand-alone entity credit for N is zero under either method. The stand-alone entity credit for each of O (\$0.66x) and P (\$3.99x) is greater using the AIRC method. Therefore, the stand-alone entity credits for each of O and P must be computed using the AIRC method. The sum of the stand-alone entity credits of the members of the group is \$4.65x. Because the group credit of \$4.10x is less than the sum of the stand-alone entity credits of all the members of the group (\$4.65x), the group credit is allocated among the members of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The \$4.10x group credit is allocated as follows:

	N	O	P	Total
Stand-Alone Entity Credit .....	\$0.00x	\$0.66x	\$3.99x	\$4.65x
Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits) .....	0/4.65	0.66/4.65	3.99/4.65	.....
Multiplied by: Group Credit .....	\$4.10x	\$4.10x	\$4.10x	.....
Equals: Credit Allocated to Member .....	\$0.00x	\$0.58x	\$3.52x	\$4.10x

(f) *For taxable years beginning before January 1, 1990.* For taxable years beginning before January 1, 1990, see § 1.41-6 as contained in 26 CFR part 1, revised April 1, 2005.

(g) *Tax accounting periods used—(1) In general.* The credit allowable to a member of a controlled group is that member's share of the group credit computed as of the end of that member's taxable year. In computing the group credit for a group whose members have different taxable years, a member generally should treat the taxable year of another member that ends with or within the credit year of the computing member as the credit year of that other member. For example, Q, R, and S are members of a controlled group of corporations. Both Q and R are calendar year taxpayers. S files a return using a fiscal year ending June 30. For purposes of computing the group credit at the end of Q's and R's taxable year on December 31, S's fiscal year ending June 30, which ends within Q's and R's taxable year, is treated as S's credit year.

(2) *Special rule when timing of research is manipulated.* If the timing of research by members using different tax accounting periods is manipulated to generate a credit in excess of the

amount that would be allowable if all members of the group used the same tax accounting period, then the appropriate Internal Revenue Service official in the operating division that has examination jurisdiction of the return may require each member of the group to calculate the credit in the current taxable year and all future years as if all members of the group had the same taxable year and base period as the computing member.

(h) *Membership during taxable year in more than one group.* A trade or business may be a member of only one group for a taxable year. If, without application of this paragraph, a business would be a member of more than one group at the end of its taxable year, the business shall be treated as a member of the group in which it was included for its preceding taxable year. If the business was not included for its preceding taxable year in any group in which it could be included as of the end of its taxable year, the business shall designate in its timely filed (including extensions) return the group in which it is being included. If the return for a taxable year is due before July 1, 1983, the business may designate its group membership through an amended return for that year filed on or before

June 30, 1983. If the business does not so designate, then the appropriate Internal Revenue Service official in the operating division that has examination jurisdiction of the return will determine the group in which the business is to be included.

(i) *Intra-group transactions*—(1) *In general*. Because all members of a group under common control are treated as a single taxpayer for purposes of determining the research credit, transfers between members of the group are generally disregarded.

(2) *In-house research expenses*. If one member of a group performs qualified research on behalf of another member, the member performing the research shall include in its QREs any in-house research expenses for that work and shall not treat any amount received or accrued as funding the research. Conversely, the member for whom the research is performed shall not treat any part of any amount paid or incurred as a contract research expense. For purposes of determining whether the in-house research for that work is qualified research, the member performing the research shall be treated as carrying on any trade or business carried on by the member on whose behalf the research is performed.

(3) *Contract research expenses*. If a member of a group pays or incurs contract research expenses to a person outside the group in carrying on the member's trade or business, that member shall include those expenses as QREs. However, if the expenses are not paid or incurred in carrying on any trade or business of that member, those expenses may be taken into account as contract research expenses by another member of the group provided that the other member—

(i) Reimburses the member paying or incurring the expenses; and

(ii) Carries on a trade or business to which the research relates.

(4) *Lease payments*. The amount paid or incurred to another member of the group for the lease of personal property owned by a member of the group is not taken into account for purposes of section 41. Amounts paid or incurred to another member of the group for the lease of personal property owned by a person outside the group shall be taken

into account as in-house research expenses for purposes of section 41 only to the extent of the lesser of—

(i) The amount paid or incurred to the other member; or

(ii) The amount of the lease expenses paid to the person outside the group.

(5) *Payment for supplies*. Amounts paid or incurred to another member of the group for supplies shall be taken into account as in-house research expenses for purposes of section 41 only to the extent of the lesser of—

(i) The amount paid or incurred to the other member; or

(ii) The amount of the other member's basis in the supplies.

(j) *Effective/applicability dates*—(1) *In general*. Except for paragraph (d) of this section, these regulations are applicable for taxable years ending on or after May 24, 2005. Generally, a taxpayer may use any reasonable method of computing and allocating the credit (including use of the consolidated group rule contained in paragraph (d) of this section) for taxable years ending before May 24, 2005. However, paragraph (b) of this section, relating to the computation of the group credit, and paragraph (c) of this section, relating to the allocation of the group credit, (applied without regard to paragraph (d) of this section) will apply to taxable years ending on or after December 29, 1999, if the members of a controlled group, as a whole, claimed more than 100 percent of the amount that would be allowable under paragraph (b) of this section. In the case of a controlled group whose members have different taxable years and whose members use inconsistent methods of allocation, the members of the controlled group shall be deemed to have, as a whole, claimed more than 100 percent of the amount that would be allowable under paragraph (b) of this section.

(2) *Consolidated group rule*. Paragraph (d) of this section is applicable for taxable years ending on or after November 9, 2006. For taxable years ending on or after May 24, 2005, and before November 9, 2006, see § 1.41-6T(d) as contained in 26 CFR part 1, revised April 1, 2006.

(3) *Taxable years ending on or before December 31, 2006*. Paragraphs (b)(1) and (c)(2) of this section are applicable for

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taxable years ending on or before December 31, 2006. For taxable years ending after December 31, 2006, see § 1.41-6T.

[T.D. 9296, 71 FR 65725, Nov. 9, 2006; 71 FR 70875, Dec. 7, 2006; 71 FR 75614, Dec. 15, 2006; T.D. 9401, 73 FR 34188, June 17, 2008]

**§ 1.41-6T Aggregation of expenditures (temporary).**

(a) [Reserved] For further guidance, see § 1.41-6(a).

(b) *Computation of the group credit*—(1) *In general.* All members of a controlled group are treated as a single taxpayer for purposes of computing the research credit. The group credit is computed by applying all of the section 41 computational rules on an aggregate basis. All members of a controlled group must use the same method of computation, either the method described in section 41(a)(1), the alternative incremental credit (AIRC) method described in section 41(c)(4), or the alternative simplified credit (ASC) method described in section 41(c)(5), in computing the group credit for a credit year.

(2) [Reserved] For further guidance, see § 1.41-6(b)(2).

(c) *Allocation of the group credit.* (1) [Reserved] For further guidance, see § 1.41-6(c)(1).

(2) *Stand-alone entity credit.* The term *stand-alone entity credit* means the research credit (if any) that would be allowable to a member of a controlled group if the credit were computed as if section 41(f)(1) did not apply, except that the member must apply the rules provided in § 1.41-6(d)(1) (relating to consolidated groups) and § 1.41-6(i) (re-

lating to intra-group transactions). Each member's stand-alone entity credit for any credit year must be computed under whichever method (the method described in section 41(a), the method described in section 41(c)(4), or the method described in section 41(c)(5)) results in the greatest stand-alone entity credit for that member, without regard to the method used to compute the group credit.

(d) [Reserved] For further guidance see § 1.41-6(d).

(e) *Example—Group alternative simplified credit.* The following example illustrates a group computation in a year for which the ASC method under section 41(c)(5) is in effect. No members of the controlled group are members of a consolidated group and no member of the group made any basic research payments or paid or incurred any amounts to an energy research consortium.

*Example.* (i) *Facts.* Q, R, and S, all of which are calendar-year taxpayers, are members of a controlled group. The research credit under section 41(a)(1) is not allowable to the group for the 2008 taxable year (the credit year) because the group's aggregate QREs for the credit year are less than the group's base amount. The group does not use the AIRC method of section 41(c)(4) because its aggregate QREs for the credit year do not exceed 1 percent of the average annual gross receipts for the four years preceding the credit year. The group credit is computed using the ASC rules of section 41(c)(5).

Assume that each member of the group had QREs in each of the three years preceding the credit year. For purposes of computing the group credit for the credit year, Q, R, and S had the following:

	Q	R	S	Group aggregate
Credit Year QREs .....	\$0x	\$20x	\$30x	\$50x
Average QREs for 3 Years Preceding the Credit Year .....	10x	20x	10x	40x

(ii) *Computation of the group credit.* The research credit allowable to the group is computed as if Q, R, and S are one taxpayer. The group credit is equal to 12 percent of so much of the QREs for the credit year as exceeds 50 percent of the average QREs for the three taxable years preceding the credit year. The group credit is  $0.12 \times (\$50x - (0.5 \times \$40x))$ , which equals \$3.6x.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-

alone entity credit for each member of the group must be computed using the method that results in the greatest stand-alone entity credit for that member. The stand-alone entity credit for Q is zero under all three methods. Assume that the stand-alone entity credit for each of R (\$1.2x) and S (\$3x) is greatest using the ASC method. Therefore, the stand-alone entity credits for each of R and S must be computed using the ASC method. The sum of the stand-alone entity